



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/695,140	10/25/2000	Rinya Takesue	Q61468	3589

7590 06/05/2002

Sughrue Mion Zinn MacPeak & Seas PLLC
2100 Pennsylvania Avenue N W
Washington, DC 20037-3213

EXAMINER

BUTTNER, DAVID J

ART UNIT	PAPER NUMBER
----------	--------------

1712

DATE MAILED: 06/05/2002

6

Please find below and/or attached an Office communication concerning this application or proceeding.

MF4

Office Action Summary

Application No.

09/695,140

Applicant(s)

TAKESUE

Examiner

BUTTNER

Art Unit

1712



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Feb 19, 2002
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

Art Unit: 1712

DETAILED ACTION

Claims 1-18 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1's "dg/mm" is not proper units for melt index.

Claims 1-8 rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over the Rees '134 patent.

Rees exemplifies (#64) a blend of E/MA copolymer, ZnO and stearic acid. The melt index is not measured, but values above 1 g/10min (1 dg/min) are contemplated (table V).

Claims 1-11 rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over the Waggoner Patent.

Waggoner claims blends of olefin/acid copolymer with a fatty acid. The blend is neutralized. This neutralization can take place after combining the copolymer and fatty acid (see example 18). Applicant's preferred acid (behenic acid) is used in example 20. The melt index is preferably 4-50g/10min (col 5 line 4).

Claims 1-18 rejected under 35 U.S.C. 103(a) as being unpatentable over the Nakade or Matsuki patents in view of Sullivan '760.

Both Nakade and Matsuki produce golf ball materials by further neutralizing ionomers with additional metal. Neither suggest metal stearates, although both suggest fillers, lubricants etc.

Art Unit: 1712

Metal stearates are known to improve melt flow, cost etc of ionomeric golf ball materials (see Sullivan col 5 line 45-57). It would have been obvious to add a metal stearate to the Nakade/Matsuki compositions for the expected advantages.

Claims 1-8 rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over the GB 1113409 patent.

The reference exemplifies adding fatty acids to highly neutralized ethylene/acid polymers. This is the same final product as is produced by applicant. In effect, the reference "preblended" applicant's (A) and (C) prior to adding (B).

Applicant's arguments filed 2/19/02 have been fully considered but they are not persuasive.

The translation removes WO 00/23519 as prior art.

Applicant argues that Rees and Waggoner do not disclose fabrication of golf balls.

Are the claims rejected over these references directed to golf balls? Why make such an argument? "Golf ball material" is nothing but a composition claim with a future intended use (MPEP 2111.02).

Applicant criticizes Rees for including acetic acid. Which of applicant's claim limitations prohibit the presence of acetic acid? The examiner is unable to find a such limitation.

Applicant's assurance that ZnO will only neutralize the copolymer but not the stearic acid in the Rees example is not believable.

Art Unit: 1712

The metal ions are labile in an ionomer composition. Some metal ions will become associated with the stearic acid present (see page 10 first paragraph of WO 98/46671).

Applicant's argument that Waggoner only teaches neutralization of the acid groups of the polymer is blatantly false. Example 20 states 25 grams of NaOH per 100g of fatty acid were added for neutralization purposes. Example 18 states the capric acid was neutralized. Capric acid corresponds to the arachidic/behenic acids used in example 20.

Arguments that GB 1113409 does not neutralize the fatty acid ignores the inherent labile nature of metal ions in ionomers. Some of the metal ions will associate with the stearic moiety (page 10 line 10 of WO 98/46671).

Applicant argues the Nakade/Matsuki in view of Sullivan rejection is not directed to non-neutralized fatty acids and fails to suggest (C) neutralizes both (A) and (B).

Applicant allows (B) to be a fatty acid derivative such as a metal stearate (page 7 line 25). Nakade and Matsuki's addition of MgO or $Mg(OH)_2$ qualifies as applicant's (C) (see page 9 line 16 of applicant's spec). It is not seen how the product of the proposed rejection (eg ionomers + mg stearate + MgO) results in a product any different from applicant's final product.

Arguments that Sullivan requires high levels of metal stearate that will destroy the Nakade or Matsuki inventions are unconvincing. The metal present in the metal stearate is an amount that 100% neutralizes the fatty acid. Regardless of how much metal stearate is added to the Nakade/Matsuki ionomer there will still be un-neutralized acid groups on the polymer. The

Art Unit: 1712

Sullivan reference itself refutes the argument that high levels of metal stearate have a negative impact.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Buttner whose telephone number is 308-2403. The examiner can normally be reached on weekdays from 10 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Dawson, can be reached on (703) 308-2340. The fax phone number for the organization where this application or proceeding is assigned is 872-9310.

Application/Control Number: 09695140

Page 6

Art Unit: 1712

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 308-0661.

DAVID J. BUTTNER
PRIMARY EXAMINER

DButtner:evh

6/01/02

A handwritten signature in cursive script, appearing to read "David Buttner", is written over the printed name and title.